



Department of Business Regulation

233 Richmond Street
Providence, RI 02903

Insurance Bulletin Number 2002-2

Terrorism Exclusion

VOLUNTARY EXPEDITED FILING PROCEDURES FOR EXCLUSIONS RELATED TO ACTS OF TERRORISM

Background

There has been much uncertainty in the markets for commercial lines property and casualty insurance coverage in light of the substantial losses experienced by the industry on September 11, 2001. Soon after the events, many reinsurers announced that they did not intend to provide coverage for acts of terrorism in future reinsurance contracts. This led to a concerted effort on behalf of all interested parties to seek a temporary federal backstop to calm market fears over future terrorists attacks and the ability of the insurance industry to allocate capital to provide coverage for these unpredictable and potentially catastrophic events. Unfortunately, Congress has been unable to reach agreement on the terms of a temporary federal solution. As a result, insurance regulators find themselves having to consider approval of certain coverage exclusions for acts of terrorism or risk possible serious solvency concerns in the insurance industry.

The intent of this bulletin is to inform you of the decision of the Rhode Island Department of Business Regulation (Department) to approve certain exclusions for acts of terrorism and to provide a voluntary procedure for insurers to use to expedite the filing and timely review of these limited exclusions. The Department was involved in recent discussions with the National Association of Insurance Commissioners (NAIC) related to this issue. In a recent conference call the members of the NAIC adopted a motion that "if the Congress adjourns without enacting federal terrorism legislation, the states should grant conditional approval to commercial lines endorsements that exclude coverage for acts of terrorism consistent with the exclusion framework developed by Insurance Services Offices, Inc. (ISO). To the extent permitted by state law, such approvals would sunset or be withdrawn fifteen (15) business days after the President signs into law a federal backstop to address insurance losses attributed to acts of terrorism, or be subject to other conditions on the approval consistent with state law." By this bulletin, the Department is informing you of its intent to act in a manner consistent with the recommendation from the NAIC. The Department believes this to be the best course of action as it balances the need of insurers to have some certainty related to solvency concerns with the business consumer's concerns that their businesses not be subject to uninsured events.

To date many unacceptable exclusions have been filed by insurers to be attached to commercial lines insurance products. These endorsements will be disapproved for use in this state as inconsistent with the interests of public policy and inconsistent with the provisions of R.I. Gen. Laws §27-6-1 *et seq.*, §27-9-1 *et seq.*, and §27-44-1 *et seq.*

***This Bulletin does not apply to those Commercial Special Risks that are exempt from regulatory review under R.I. Gen. Laws §27-65-1 *et seq.* (See *Commercial Special Risk Bulletin* on website)**

Instead of approving the very broad total exclusions of coverage for acts of terrorism, this state intends to grant approval to exclusions that are substantially similar to the series of optional endorsements developed by ISO, **except that no approval will be granted for those Commercial Special Risks that are exempt from regulatory review under R.I. Gen. Laws §27-65-1 et. seq.** These approved endorsements include the following:

ISO Filing CL 2001 OWTMF- Amendment #2, effective 1/1/02

ISO Filing CL 2001 OWTMU- Amendment, effective 1/1/02

COMMERCIAL PROPERTY INTERLINE ENDORSEMENT: IL 09 40 01 02

(for use with Commercial Property and Farm Coverage Parts)

COMMERCIAL PROPERTY INTERLINE ENDORSEMENT: IL 09 42 01 02

(for use with Commercial Crime Parts)

BUSINESSOWNERS ENDORSEMENT: BP 05 12 02

(for use with Businessowners Property Coverage Forms)

BUSINESSOWNERS ENDORSEMENT: BP 05 13 01 02

(for use with Businessowners Liability Coverage Forms)

FARM LIABILITY ENDORSEMENT: FL 10 30 01 02

(for use with Farm Liability Coverage Form)

ISO Filing CL 2001 OWTFO- Amendment #2, effective 1/1/02

ISO Filing CL 2001 OWTRU- Amendment, effective 1/1/02

COMMERCIAL GENERAL LIABILITY ENDORSEMENT: CG 21 69 01 02

(for use with Commercial General Liability)

COMMERCIAL GENERAL LIABILITY ENDORSEMENT: CG 31 42 01 02

(for use with Owners & Contractors Protective Liability Coverage Part and Products/Completed Operations Liability Coverage Part)

COMMERCIAL GENERAL LIABILITY ENDORSEMENT: CG 31 43 01 02

(for use with Pollution Liability Coverage Part and Underground Storage Tank Policy)

In an unprecedented move in recognition of the seriousness of the situation, ISO has indicated that it will permit the use of its copyrighted language by any insurer, including one that is not a current member of ISO for policy forms. Insurers that are current members of ISO for policy forms can use the new language pursuant to their current ISO agreements and approval by this state of its forms. **If you are properly affiliated with ISO, and have given them authorization to file on your behalf, no further action is needed on your part.**

Any insurer that does not have a license agreement in effect with ISO for policy forms is required to execute a short, limited license agreement that authorizes the use of the new language. ISO has indicated that there will be no fee for this limited license. You may contact ISO's Customer Service Department directly for more information at 1-800-888-4ISO(4476) using option 2. You may also contact ISO at "info@ISO.com." You will be responsible for assuring compliance with this state's filing requirements, however, you may find that the expedited approval process outlined in this bulletin to be helpful in receiving prompt approval of your filing.

Explanation and Instructions for Expedited Review

The policy exclusions filed by ISO and approved by this state have some significant limitations that provide coverage for acts of terrorism under certain circumstances. For policies providing property insurance coverage the following limitations apply:

- Exclusion for acts of terrorism only apply if the acts of terrorism result in industry-wide insured losses that exceed \$25,000,000 for related incidents that occur within a 72 hour period.
- Exclusions for acts of terrorism are not subject to limitations above if:
 - The act involves the use, release or escape of nuclear materials, or that directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
 - The act is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
 - Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

For policies providing liability insurance coverage the following limitations apply:

- Exclusion for acts of terrorism only apply if the acts of terrorism result in industry-wide insured losses that exceed \$25,000,000 for related incidents that occur within a 72 hour period; or
- Fifty or more persons sustain death or serious physical injury. For purposes of this provision serious physical injury means:
 - Physical injury that involves a substantial risk of death;
 - Protracted and obvious physical disfigurement; or
 - Protracted loss of or impairment of the function of a bodily member or organ.
- Exclusions for acts of terrorism are not subject to limitations above if:
 - The act involves the use, release or escape of nuclear materials, or that directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
 - The act is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
 - Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

This state will accept the following definition of “acts of terrorism” or definitions that are more liberal to policyholders:

Terrorism means activities against persons, organizations or property of any nature:

1. That involve the following or preparation for the following:
 - a. Use or threat of force or violence; or
 - b. Commission or threat of a dangerous act; or
 - c. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
2. When one or both of the following applies:
 - a. The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - b. It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or to express opposition to) a philosophy or ideology.

For an insurer to receive expedited approval of its exclusions for commercial lines insurance coverages, the exclusionary endorsements must comply with the terms and conditions set forth in this bulletin and be submitted in accordance with the instructions specified below. Further, the insurer must certify that it is either using the ISO endorsements or using an endorsement that provides coverage that is at least as broad as the approved ISO endorsements.

Forms with Instructions

Attached to this bulletin is a uniform filing transmittal form that has been agreed upon by this state. An insurer wishing to receive expedited treatment of its filing for approval under §27-6-1 *et seq.*, §27-9-1 *et seq.*, and/or §27-44-1 *et seq.* shall complete the Rhode Island EXPEDITED FILING—TERRORIST EXCLUSIONS APPLICATION Form Filing Transmittal as directed. **It should be noted that Rhode Island has made modifications to the expedited filing form and the Department will require the Rhode Island specific form for expedited consideration of commercial lines exclusions for terrorism.** In addition, the insurer(s) submitting this filing must certify that it is either using one or more of the ISO endorsements or has developed its own exclusionary language that provides policyholders coverage that is at least as broad as the approved ISO endorsement.

The insurer(s) must certify that the reason for seeking approval of these endorsements is that it is unable to obtain reinsurance coverage for acts of terrorism. It must also certify an acknowledgement that the approval would sunset fifteen (15) business days after the President signs into law a federal backstop to address insurance losses attributed to acts of terrorism. Certifications are made by signing the appropriate blank on the transmittal form.

To be complete, a form filing must include the following:

1. A completed, certified **Rhode Island** Form Filing Transmittal Header for each insurer**.
2. One copy of each endorsement, unless you have given ISO authorization to file on your behalf.
3. The appropriate filing fees.
4. A postage-paid, self-addressed envelope **large enough to accommodate the return.**

**If this filing is for multiple companies within a group, please list the company name(s) and NAIC#(s) for each insurer as well as provide the NAIC Group# which this filing applies to.

Effective Date

This bulletin shall take immediate effect; provided however, the approvals granted by this Department will sunset fifteen (15) business days after the President signs into law a federal backstop to address insurance losses attributed to acts of terrorism.

Marilyn Shannon McConaghy, Director
January 10, 2002

EXPEDITED FILING— COMMERCIAL LINES TERRORIST EXCLUSIONS APPLICATION

RI Ed. 1/10/2002

This page applies to the State of Rhode Island .

Department Use Only

Company Name(s) (For multiple companies within a group, please list the individual company name(s) for each insurer which this filing applies to.)	Domicile	NAIC & Group #	FEIN #

Contact Information for Filer

Name and address of Filer(s)	Telephone #	FAX #	e-mail

Filing information

Line of Insurance	
Company Program Title	
Filing Type	
This application is used with:	
Effective Date Requested	
Filing date	
Company Tracking Number	
Date filing approved in domiciliary state	

	<u>Component/Form Name</u> <u>/Description/Synopsis</u>	Form # Include edition date	Replacement or withdrawn?	If replacement, give form # it replaces	Previous state filing number, if required by state
01			<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input type="checkbox"/> Neither		
02			<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input type="checkbox"/> Neither		

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- One copy of each endorsement, unless you have given ISO authorization to file on your behalf.
- The appropriate filing fees. (See Form and Rate Filing Fee Bulletin on website)
- A postage-paid, self-addressed envelope **large enough to accommodate the return.**

The insurer(s) submitting this filing certifies that it is:

- ☐ Using one of the approved ISO endorsements: OR
- ☐ Using an endorsement that provides coverage that is at least as broad as the ISO endorsements.
AND (must check all three (3) boxes below):
- ☐ Is unable to obtain reinsurance coverage for acts of terrorism; and
- ☐ Is either a member ISO company or has signed a limited license agreement with ISO; and
- ☐ Is acknowledging that the approval would sunset fifteen (15) business days after the President signs into law a federal backstop to address insurance losses attributed to acts of terrorism.

Signature

Print Name

Title

Date

COMPLETED SAMPLE FORM

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Department Use only

Company Name (For multiple companies within a group, please list the individual company name(s) for each insurer which this filing applies to.)	Domicile	NAIC & Group #	FEIN #
ABC Insurance Company	NY	0000-99999	99-1234567

Contact Information for Filer

Name and address of Filer(s)	Telephone #	FAX #	e-mail
John Doe (Form Filing) Regulatory Compliance ABC Insurance Co. 12345 Fifth Ave New York, NY 10234	501-555-5555	501-555-5551	John.doe@abcins.com

Filing information

Line of Insurance	Commercial General Liability
Company Program Title	General Liability Program
Filing Type	Form (Endorsement)
This application is used with:	(Insert policy form number to which the application attaches)
Effective Date Requested	01-01-02 (Enter your desired effective date)
Filing date	(Date Company sends filing)
Company Tracking Number	ABC-EP-2001-01 (Enter your filing tracking number, if applicable)
Date filing approved in domiciliary state	Not approved yet. Filed on same date as this filing.

	Component/Form Name /Description/Synopsis	Form #) Include edition date	Replacement or withdrawn?	If replacement, give form # it replaces	Previous state filing number, if required by state
01	War or Terrorism Exclusion	CG 21 69 01 02	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
02			<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input type="checkbox"/> Neither		

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- ☐ Using an endorsement that provides coverage that is at least as broad as the ISO endorsements.
AND (must check all three (3) boxes below):
- ☐ Is unable to obtain reinsurance coverage for acts of terrorism; and
- ☐ Is either a member ISO company or has signed a limited license agreement with ISO; and
- ☐ Is acknowledging that the approval would sunset fifteen (15) business days after the President signs into law a federal backstop to address insurance losses attributed to acts of terrorism.

Signature

Print Name

Title

Date

